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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 4th day of June, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition No. 8572 of 1993

Smt. Sonnamma,
w/o Sonnappa,
residing at, Gaddada-
nayakanahalli Village,
Vijayapura Hobli,
Devanahalli Taluk,
Bangalore Rural Dist.

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..Petitioner

(By Sri B.T. Parthasarathy, Advocate)

-Vs-

1. State of Karnataka,
by its Commissioner,
and Secretary to the
Department of Revenue,
Vidhana Soudha,
Bangalore-1;
2. The Deputy Commissioner,
Bangalore Rural District,
Bangalore-1;
3. The Assistant Commissioner,
Doddaballapura Sub-Division,
Bangalore-1;
4. The Tahsildar,
Devanahalli Taluk,
Devanahalli;
5. The Zilla Parishat,
Bangalore Rural District,
K.G. Road, Bangalore-9,
by its Secretary;
6. Koramangala Mandal Panchayat,
Koramangala,
Devanahalli Taluk,
Bangalore Rural Dist.,
by its Secretary

..Respondents

(By Sri A.Nagarajappa, AGA, for R1-4;
Sri Thimmegowda, Adv., for R5 and 6)

Writ petition is filed praying to quash notice dated 22-1-1993 issued by 6th respondent and endorsement dated 3-2-1993 issued by the third respondent.

Writ petition is coming on for preliminary hearing in 'B' group, this day, the court made the following:

O R D E R

The petitioner claims that she is the owner of land bearing Sy No 4/4 of Gaddanayanahalli, Vijayapura hobli, Devanahalli taluk, measuring 1 acre 20 guntas. Her land was acquired under the Karnataka Acquisition of Land for Grant of House Sites Act, 1972, in the year 1977. The same was challenged by the petitioner in WP No 5344 of 1977 and the acquisition was quashed, by order dated 27-11-1980. Thereafter, fresh notifications were issued, i.e. preliminary notification dated 12-12-1983, gazetted on 30-7-1984, and final notification dated 14-3-1985. The petitioner challenged the said notifications in WP No 7724 of 1985. The said writ petition was dismissed. Thereafter, the petitioner gave a representation to the sixth respondent requesting to delete her land from acquisition. According to petitioner, the sixth respondent passed a resolution dated 25-4-1989, recommending that the petitioner's land should be deleted from acquisition and the said

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recommendation was sent to the Deputy Commissioner. On the basis of the said resolution/recommendation by the sixth respondent, according to petitioner, the third respondent wrote to fifth respondent for deleting the petitioner's land from acquisition. The petitioner claim that the General Standing Committee of the fifth respondent inspected the spot on 27-7-1989 and held an enquiry on 6-9-1989 and decided to drop the acquisition of the said land and addressed a letter in that behalf to the second respondent on 26-9-1989. The petitioner claims that thereafter, a mahazar was drawn in regard to regrant of said land to the petitioner by the sixth respondent. The petitioner claims that she received a communication dated 3-9-1991 from the third respondent calling upon her to express her willingness for the regrant as stated therein. The petitioner claims to have expressed her willingness for regrant.

3. It is stated that sites for allotment to the siteless persons were formed in another land viz.,
(gomal ^{land bearing} Sy No 15) and allotment was made. Thus,

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according to petitioner, her land was not required for the purpose for which it was proposed to acquire.

4. When matters stood thus, the petitioner was served with a notice dated 22-1-1993 [Annexure 'K'] by the sixth respondent stating that possession of her land has been taken and called upon her to remove all belongings therefrom within fifteen days from the date of said notice. The said action was said to have been taken in pursuance of a communication dated 30-12-1992 from the third respondent. The petitioner claims to have approached the third respondent ~~and~~ for issue of a copy of the order dated 30-12-1992. That was refused vide endorsement dated 3-2-1993 [Annexure 'L']. Feeling aggrieved, the petitioner has filed this petition and sought quashing of Annexure 'K' and 'L'.

5. The petitioner contends that as the land was not required for forming sites for allotment to siteless persons, as such sites were already formed in gomal land and as a decision has already been taken to delete her land from acquisition, the

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petitioner cannot be dispossessed from the land. She also contends that possession of the land has not been taken from her.

6. The fact that the land has been acquired under the Act is not in dispute. The petitioner has not produced any Notification to show that the acquisition has been withdrawn. However, if the contention of the petitioner is that there is a proposal for regrant and she has already executed necessary documents in that behalf, she should pursue the matter for regrant of the land by giving representation or by taking action in accordance with law. In so far as Annexure 'K' is concerned, the petitioner should file her objections, bringing to the notice of the sixth respondent of the facts that already a decision has been taken to delete her land from acquisition ^(if such decision has been taken) and to form sites in Sy No 15 for the said purpose. The petitioner may also give copies of such representation to the second and third respondents. The authorities will have to take appropriate decision in the matter by considering her representation. Hence, the question of quashing Annexure 'K' does not arise.

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7. In view of above, this petition is disposed of reading down Annexure 'K' as show cause notice and permitting the petitioner to file her objections thereto. Such an objection shall be considered by the concerned authorities and appropriate orders be passed having regard to the facts and circumstances of the case. All contentions of both parties left open.

Sd/-
JUDGE



*pjk